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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/059,637	01/29/2002	Arindam Datta	ETH-1635	7724

27777 7590 05/29/2003
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EXAMINER

HO, UYEN T

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 05/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/059,637

Applicant(s)

DATTA ET AL.

Examiner

(Jackie) Tan-Uyen T. Ho

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 21 April 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 54 and 55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 54 is/are rejected.
- 7) ☒ Claim(s) 55 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

1. The Amendment filed on 1/29/2002 and the supplemental amendment filed on 4/24/2003 are acknowledged and fully considered.

Claim Objections

2. Claim 55 is objected to because of the following informalities: line 5, "comprising a comprising a blend" should be "comprising a blend". Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 54 is rejected under 35 U.S.C. 102(b) as being anticipated by Wang et al. (WO 98/56312).

Wang et al. disclose a stent including an elongated structure (figs. 2-6) having an inner passage and the structure including an inner core (12) having an outer surface, the core comprising a first biodegradable polymer composition having a first degradation rate and an outer structure (14) positioned over the outer surface of the inner core, the outer structure comprising a second biodegradable polymer composition having a second degradation, wherein the first degradation rate is slower than the second degradation rate (page 10, lines 11-28 and page 12, lines 1-15).

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Allowable Subject Matter

5. Claim 55 is allowed over the prior art but need to be rewritten in order to overcome the claim objection. The following is an examiner's statement of reasons for allowance: claim 55 is allowed because the prior art fails to disclose or suggest a stent comprising a tubular structure having an inner core and an outer section covering the exterior surface of the inner core; wherein the inner core comprising a blend of two biodegradable polymers wherein the first biodegradable polymer comprising a lactide/glycolide copolymer having at least about 80 mole percent of polymerized glycolide and the second biodegradable polymer comprising a lactide-rich copolymer comprising at least about 50 mole percent of polymerized lactide; wherein the outer section comprising a biodegradable polymer formed from monomers; and wherein the degradation rate of the outer section is faster than the degradation rate of the inner core.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Lafont et al. (5,957,975) disclose a stent having at least two sections, each section being made from a different biodegradable polymeric material having different biodegradation rate.

O'Connell (6,267,776) disclose a stent like structure having an inner member (plurality of legs) being made from a biodegradable polymeric material having a biodegradation rate slower than a biodegradable outer member (retainer).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to (Jackie) Tan-Uyen T. Ho whose telephone number is (703) 306-3421. The examiner can normally be reached on MULTIFLEX Mon. to Sat..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Milano can be reached on (703) 308-2496. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-3977 for regular communications and (703) 305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.



(Jackie) Tan-Uyen T. Ho
Patent Examiner
Art Unit 3731
May 22, 2003